

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6589

BILL NUMBER: HB 1439

NOTE PREPARED: Dec 18, 2006

BILL AMENDED:

SUBJECT: Judicial Nominating Commission.

FIRST AUTHOR: Rep. Foley

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **X** GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Added Discretionary Power* – The bill allows the Judicial Nominating Commission to make a recommendation concerning the approval or rejection of a justice of the Supreme Court, a judge of the Court of Appeals, or the judge of the Tax Court who is standing for retention in a general election. It requires any recommendation made by the Commission to be placed on the general election ballot following the justice's or judge's retention question.
- B. *Composition of Judicial Nominating Commission* – The bill also provides that nominees for the elected attorney member positions on the Commission are selected by the Speaker of the House of Representatives and the President Pro Tempore of the Senate instead of the attorney electors in each court of appeals district. It provides that the term of office of each: (1) elected attorney member; and (2) appointed nonattorney member; of the Commission expires on September 1, 2007. It requires the clerk of the Supreme Court to begin proceedings to conduct a special election to replace the elected attorney members of the Commission not later than June 1, 2007. It requires the Governor to appoint new nonattorney members of the Commission to replace the appointed nonattorney members of the Commission not later than August 1, 2007.

Effective Date: Upon passage.

Explanation of State Expenditures: *Summary:* This bill is estimated to result in savings of \$3,000 to the state General Fund.

Background On Judicial Nominating Commission – The Judicial Nominating Commission includes

seven members. Three members are attorneys, and three members are nonattorneys. An attorney and nonattorney each represent a part of either the north, central, or southern portion of Indiana. The Chief Justice of the Indiana Supreme Court serves as the Chair. The attorney members are elected by practicing attorneys in good standing with the Clerk of the Supreme Court. The nonattorneys are appointed by the Governor of Indiana.

The Judicial Nominating Commission has three functions:

- It recruits and interviews applicants to fill vacancies on the Supreme Court, the Court of Appeals, and the Tax Court.
- It selects the Chief Justice of Indiana from among the five justices on the Indiana Supreme Court.
- It certifies former Indiana judges as Senior Judges to serve in Indiana's courts.

This bill would add discretionary power to the Judicial Nominating Commission and change how attorney members are selected.

Added Discretionary Power – Under current law, when the term of a judge of the Court of Appeals or a justice of the Supreme Court expires and the judge or justice files a petition to refill this position, their name is included on the ballot of the general election with the question: "Shall Judge or Justice (name here) be retained in office?". This bill would permit the Judicial Nominating Commission to either approve or reject retention of the judge or justice. This provision should have no effect on state expenditures.

Selection of Attorney Members of Judicial Nominating Commission – Under current law, the Clerk of the Supreme Court sends by first class mail a notice to each attorney in good standing in Indiana to select a member of the Judicial Nominating Commission. An attorney wishing to be a commission member returns the nomination form with the names of 30 attorneys who support the person's nomination. Once the Clerk of the Supreme Court receives all nominations, the staff compile a ballot with all candidates who wish to be attorney members and who have a minimum of 30 signed petitioners. The staff then sends a ballot with all qualified candidates to attorneys across the state. The attorneys select one of the candidates and return the ballots in the mail.

Since the bill provides that the Speaker of the House of Representatives and the President Pro Tempore of the Senate would select the members of this group instead of practicing attorneys, the state would save the cost of mailing the initial election forms to attorneys. Based on an attorney roll of 3,816 and mailing costs of 78¢ per notice (including pre-paid return envelope), the state could avoid spending \$3,120.

Judges and Justices with Expiring Terms – The following table shows the number of judges who have terms expiring between 2008 and 2014. Some of these judges and justices may wish to be retained in the next election.

Expiration Schedule of Current Justices and Judges Affected by This Bill				
Year Term Expires	Number of Judges Whose Terms Expire			Total Per Year
	Supreme Court	Court of Appeals	Tax Court	
2008	3	1	1	5
2010	0	3	0	3
2012	1	5	0	6
2014	0	1	0	1
Totals	5	15	1	21

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Clerk of the Supreme Court.

Local Agencies Affected:

Information Sources: Clerk of the Supreme Court.

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